

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PETER A. CRAWFORD,

Plaintiff,

v.

Civil Action No.
05-cv-10078 (DPW)

WOLVERINE, PROCTOR & SCHWARTZ, INC.;
STEVEN F. CHILINSKI, and
DEEPAK S. KULKARNI,

Defendants.

DEFENDANTS' MOTION FOR PARTIAL DISMISSAL

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendants Wolverine, Proctor & Schwartz, Inc. ("Wolverine"), Steven F. Chilinski ("Chilinski") and Deepak S. Kulkarni ("Kulkarni") move that this Court dismiss with prejudice the second, fourth, fifth, sixth and seventh counts of plaintiff, Peter A. Crawford's ("Crawford"), Complaint. The grounds for this Motion, as detailed in the Defendants' Memorandum of Law and the Affidavits of Mark Whitney and Mark Brown, submitted herewith, are that:

- Crawford's claims for violations of the Massachusetts Payment of Wages Act must be dismissed because the statute is inapplicable to the type of bonus payment at issue here. (Second and Fourth counts of the Complaint)
- Crawford's claim for tortious interference against Kulkarni must be dismissed because Kulkarni cannot be held liable for interfering with a contract to which he is a party. (Seventh count of the Complaint)
- Crawford's claims for breach of the parties' Transition Agreement and his related Wage Act claim must be dismissed because Crawford's allegations do not support a finding of breach by Wolverine. (Fifth and Sixth counts of the Complaint)

For the above reasons, Defendants' Partial Motion to Dismiss should be allowed, and an Order of Dismissal With Prejudice should be entered in Defendants' favor on the second, fourth, fifth, sixth and seventh causes of action of the Complaint.

LOCAL RULE 7.1 CERTIFICATION

I certify that on April 8, 2005, my colleague, Jeffrey D. Kuhn, discussed by telephone the bases of the foregoing Motion with Plaintiff *pro se*, Peter A. Crawford, in an effort to narrow or resolve the underlying issues. Mr. Kuhn was not successful in his attempt to narrow or resolve any of the issues addressed in this motion.

Dated: April 8, 2005

Respectfully submitted,

WOLVERINE, PROCTOR &
SCHWARTZ, INC.,
STEVEN F. CHILINSKI, and
DEEPAK S. KULKARNI

By their attorneys,

/s/ Mark M. Whitney
Mark Whitney (BBO #637054)
Jeffrey D. Kuhn
MORGAN, BROWN & JOY LLP
200 State Street
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(617) 523-6666

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 8, 2005, I filed the foregoing document with the Clerk of the Court by using the ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing to the pro se plaintiff, Peter A. Crawford, 23 Newcastle Drive, #11, Nashua, NH 03060, by U.S. mail, on April 8, 2005.

/s/ Mark M. Whitney
Mark M. Whitney, Esq.